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October 18, 2023

Hon. Denise L. Cote
Judge of the United States District Court, S.D.N.Y.

**Re: *Avalon Holdings Corporation v. Gentile* 18-cv-7291 (DLC) (RWL)
New Concept Energy, Inc., 18-cv-8896 (DLC) (RWL)
Opposition To Extension Of Response Time By Four Weeks**

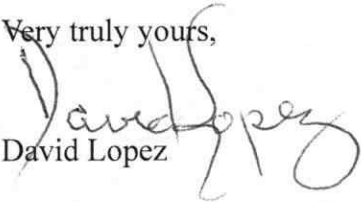
Your Honor:

I am one of plaintiffs' counsel and I write in response to the letter motion of Thomas J. Fleming, Esq. requesting a four week extension of the defendant's time to file objections to the Report and Recommendation of Magistrate Judge Lehrburger of October 6, 2023.

Mr. Fleming correctly states that plaintiffs oppose a four week extension but reluctantly propose, instead, a two week expansion at most. Mr. Fleming and two colleagues have been newly retained as additional counsel -- not replacement counsel -- to the defendant. Delay, delay and delay have been the cornerstone of defense strategy throughout the life of this five year old case, so much so that among the recommendations made by Magistrate Judge Lehrburger is an award of attorneys' fees to plaintiffs' counsel for their months of effort in opposing the dilatory actions of the defense following entry of summary judgment of liability.

Seeking a four week delay to frame objections when the original order was for ten days is a continuation of past practices. The defense attorneys throughout the past five years of litigation remain counsel of record and remain available to collaborate with supplemental counsel in framing objections. The reading of Magistrate Judge Lehrburger's Report and of the transcript of a two day inquest should easily be accomplished in less than ten days plus four weeks.

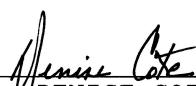
Very truly yours,


David Lopez

DL/el

Cc: All counsel of record via ECF

October 18, 2023: Granted.
Objections due November 3, 2023.
Responses due November 17.


DENISE COTE
United States District Judge